

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION FREE CONFERENCE COMMITTEE ON SENATE BILL 390

Call to Order: By **CHAIRMAN BILL GLASER**, on April 10, 2001 at 1:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Rep. Bob Lawson, Chairman (R)
Sen. John Cobb (R)
Rep. Kathleen Galvin-Halcro (D)
Sen. Bea McCarthy (D)
Rep. Roger Somerville (R)

Members Excused: None.

Members Absent: None.

Staff Present: Linda Ashworth, Committee Secretary
Connie Erickson, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 390, 4/14/2001
Executive Action:

HEARING ON SB 390

Questions from Committee Members and Responses:

Madalyn Quinlan explained the amendments proposed by the Office of Public Instruction, **EXHIBIT(frs81sb0390a01)**.

Motion: **SEN. MCCARTHY** moved that **SB 390 BE AMENDED**.

Discussion:

REP. BOB LAWSON asked **Lance Melton** for his opinion on the proposed amendments. **Mr. Melton** maintained the amendment would correct an oversight in the original language.

REP. LAWSON asked for clarification between the usage of the words "previous and current". **Ms. Quinlan** articulated the difference in the terminology.

SEN. JOHN COBB queried whether the weighted average would be voted on every year. **Ms. Quinlan** maintained any amount over the district's maximum general fund budget would be voted on every year.

SEN. COBB wondered if a vote would be needed each year after the school district had reached the weighted average. **Madalyn Quinlan** affirmed his assessment, reiterating that a district over the maximum would have to vote the difference between the maximum and the over-max portion.

REP. LAWSON stated his intention that the state wide average would become the new cap, which would not have to be voted on each year. **Lance Melton** felt the amendment would redefine the cap because the formula would result in a disparity that could not be accounted for in cost differentials. He felt the proposal would address equity, not violate it. He stated his preference that the issue be treated as though the district would vote between over-base, but below max.

REP. ROGER SOMERVILLE questioned the comparison of costs between the range of high schools. **Mr. Melton** answered that Willow Creek ranked the highest with a \$12,000 per pupil cost, decreasing to \$5,000 per pupil in the AA districts.

SEN. BEA MCCARTHY wondered if an adjustment could be made in the bill to agree with **Mr. Melton's** request. **Madalyn Quinlan** suggested that allowing some districts to attain over-max without a vote, while requiring other districts to get voter approval, would create a disparity among school districts.

SEN. MCCARTHY maintained both groups should be treated equally. **Ms. Quinlan** listed several options that would address the equity issue.

REP. LAWSON restated his desire that the state wide average would become the new cap, since school districts would have a choice between the existing cap or the state wide average maximum fund. **Madalyn Quinlan** clarified that a school district would not have to vote to remain at the state wide weighted average. She

postulated that smaller districts with budgets that would exceed the state wide maximum would have to vote each year in order to maintain that level of budget.

REP. LAWSON contended that school districts, exceeding the state wide maximum could ask the voters each year for the amount over the average weighted state average. **Ms. Quinlan** suggested that schools would have to vote the amount over their own maximum. She maintained the system currently recognized that it would cost more to educate a student in a small school than a large school.

SEN. MCCARTHY WITHDREW the motion **TO AMEND 390**.

SEN. LAWSON opened discussion on deleting "94% and 30%" on pages 9 and 10 of the bill. **Connie Erickson** instructed the committee that an amendment had been drafted to delete "94%" and the language "by 30% or more". She instructed the committee that the deletion "30% or more" would result in further changes in the bill, beginning on page 10, line 2-21.

Lance Melton indicated that school districts with a 6%-29.9% loss of budget authority were treated in a different way under current law. Those districts would be able to adopt last year's budget, with voter approval, for a period of five years. Removing the 30% language, while leaving the language following it, would result in penalization of those districts. He maintained deleting the language, "up to 94%", would help every district in the state with declining enrollments of less than 30%.

CHAIRMAN GLASER hypothesized that equalization would not be affected within the five year limit. He theorized that extending the issue past five years would affect equalization.

Motion/Vote: **SEN. MCCARTHY** moved that **SB 390 BE AMENDED TO "REMOVE "UP TO 94% OF" ON PAGE 9, LINE 30. Motion carried unanimously.**

{Tape : 1; Side : A; Approx. Time Counter : 0 - 32; TAPE DATED 04-10-01}

Connie Erickson addressed the elections amendment. She informed the committee that Montana School Boards Association had suggested extending the statutory deadlines. She contended that **REP. SOMERVILLE** had advocated moving the election two weeks beyond the May 8th date. She narrated that the education group had come to a consensus to change the deadlines instead of the election date.

REP. LAWSON requested input from **Robert Throssell, Montana Clerk and Recorder's Association**. **Mr. Throssell** reported that many counties were running the school elections at the request of the school districts. He contended those counties were already in the process of printing ballots and setting the elections.

Lance Melton maintained school districts that were currently printing ballots had certified their elections before the deadline.

REP. SOMERVILLE wondered if the election date could be changed after the date had been set by the clerk and recorder. **Mr. Throssell** clarified that the elections would fall under the school title and election procedures. The counties would be running the elections under contract with the school districts, according to school district laws.

CHAIRMAN GLASER queried whether the change would be mandatory or optional. **Mr. Melton** answered that it would be the school district's option. He reiterated that the extension would be for one week.

SEN. MCCARTHY wondered if school election dates were the same state wide. **Connie Erickson** contended the statutory date was the second Tuesday after the first Monday in May. **SEN. MCCARTHY** maintained exceptions could not be made for one district.

Lance Melton related that many districts were at the maximum budget and would love to have the opportunity to adopt last year's budget, under the "up to 94%" language. He argued it would significantly change their levy. **Mr. Melton** claimed a retro-active applicability provision would be needed to address the election deadline waiver.

REP. LAWSON voiced his concerns with giving up the weighted average in favor of a transition plan of \$100 per ANB for four years. He suggested raising the ANB to a larger amount, while extending the years available to collect the money.

REP. LAWSON questioned whether the flex plan and the transition plan were the same. **CHAIRMAN GLASER** explained that the transition allowance fund would be a local vote of short term money that would not affect equalization. It would allow schools to address extraordinary needs.

REP. LAWSON requested an explanation of the flex plan. **CHAIRMAN GLASER** instructed that the flex plan would be a mechanism to place one-time money in a predetermined distribution system.

{Tape : 1; Side : B; Approx. Time Counter : 18 - 32}

Lance Melton handed out suggestions for the distribution of flex money, as recommended by the Montana School Boards Association, **EXHIBIT(frs81sb0390a02)**. He compared his suggestions with the allocation of funds in SB 500, **EXHIBIT(frs81sb0390a03)**. **CHAIRMAN GLASER** asserted the flex plan would contain a distribution scheme based on historic and present ANB per district, per student. It would also contain a list of items on which the school could spend the money.

Connie Erickson queried whether the flex plan contained decrements. **CHAIRMAN GLASER** held that the decrements would be a separate issue and not part of the flex plan. He said that the flex plan would be a tool in statute to distribute one-time funds.

SEN. MCCARTHY requested that **Chuck Swysgood** comment on the flex plan and weighted average. **Mr. Swysgood** speculated that the weighted average could create a potential constitutional conflict. He stated he did not have a position on the flex plan.

SEN. COBB asked if Governor Martz would veto the bill if it contained the weighted average proposal. **Mr. Swysgood** responded that the governor's office was not fond of the weighted average.

REP. LAWSON wondered if the flex plan could be spent for salaries or an assessment program. **CHAIRMAN GLASER** contended the flex money could be spent on salaries. He asserted the money could also be spent on a new programs that would enhance educational opportunities in the district. He cited his trust that school boards were capable of making decisions that would affect their districts in a positive manner.

REP. LAWSON asked for clarification to the advantages of the flex plan. **CHAIRMAN GLASER** indicated the flex fund would not have strings attached, allowing schools to utilize the money where they would deem appropriate.

CHAIRMAN GLASER recessed the committee until 8:00 A.M. the following day.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 18; COMMENT: TAPE DATED 04-10-01}

THE FREE CONFERENCE COMMITTEE ON SENATE BILL 390 was reconvened By **CHAIRMAN BILL GLASER**, on April 11, 2001 at 8:00 A.M., in Room 405 Capitol. **ALL MEMBERS WERE PRESENT.**

DISCUSSION ON SB 390**Questions from Committee Members and Responses:**

SEN. COBB explained the **Ryan** Amendment would allow any loss of funding, due to a drop in ANB, to revert to the flex plan instead of reverting back to the state. Information was distributed by **Eric Feaver** pertaining to suggested uses of the flex plan fund, **EXHIBIT(frs81sb0390a04)**.

SEN. MCCARTHY reminded the committee that education would only receive an additional 5.1 million dollars upon the acceptance of the flex plan. She suggested the committee work from the flex plan. **CHAIRMAN GLASER** hypothesized the money would be contained in HB 2 without the flex plan.

REP. LAWSON asked for input from the education community, regarding the uses of flex plan money. **Connie Erickson** reminded the committee that the Office of Public Instruction had requested that expenditures incurred for student assessment and evaluation and development of curriculum materials, **EXHIBIT(frs81sb0390a05)** be included in the flex fund.

Madalyn Quinlan clarified that the flex plan would allow schools to use money for various kinds of student assessment and evaluation. **SEN. MCCARTHY** asserted that teachers were currently doing assessments at all grade levels. She contended the cost of testing should not be isolated. **REP. KATHLEEN GALVIN-HALCRO** agreed that schools continually tested children for special services placement.

REP. LAWSON felt testing would be a logical place to spend flex money. **REP. SOMERVILLE** questioned whether flex funds could be used in the development of curriculum materials. **SEN. MCCARTHY** explained that curriculum development was an ongoing expense in most districts.

Eric Feaver, MEA/MFT, spoke to the proposed amendment, indicating the amendment changed the language in SB 500 to include bonuses instead of salaries. He inferred that any negotiations that would only address classroom teachers would discriminate against those educators outside the classroom.

{Tape : 3; Side : A; Approx. Time Counter : 0 - 32 TAPE DATED 04-11-01}

Lance Melton distributed a handout that addressed recommendations of the School Administrators of Montana, Montana Rural Education

Association, and Montana School Boards Association, **EXHIBIT(frs81sb0390a06)**. He indicated that many of the districts represented by MSBA pay their administrators less than many AA districts pay their teachers.

CHAIRMAN GLASER contended the list could be broadened as long as equalization remained intact. **SEN. SOMERVILLE** felt the focus of additional funding should lie with the classroom teacher.

SEN. MCCARTHY reminded the committee that the intent of the special session had been to give more money to teachers. She reported that post-session surveys indicated the money had not been used for classroom teachers.

Lance Melton advised the committee that certified staff would include superintendents and a host of other instructional staff. **Eric Feaver** reported that school shortages included administrators as well as certified teachers.

Motion/Vote: **REP. LAWSON** moved that **SB 390 BE AMENDED TO "INCORPORATE THE FLEX PLAN USING THE LANGUAGE ON MR. MELTON'S HANDOUT, (EXHIBIT #6) AS WELL AS THE LANGUAGE SUBMITTED BY MADALYN QUINLAN, (EXHIBIT #5)",. Motion carried unanimously.**

Motion/Vote: **CHAIRMAN GLASER** moved that **SB 390 BE AMENDED TO "ALLOW AN EXTENSION OF DEADLINES PRIOR TO AND INCLUDING APRIL 13 UNTIL APRIL 20". Motion carried unanimously.**

Motion: **SEN. COBB** moved that **SB 390 BE AMENDED TO "DELETE THE 30% LANGUAGE".**

Discussion:

SEN. MCCARTHY questioned if the entire paragraph would be deleted. **Connie Erickson** explained that everything after line 2 on page 10 would be deleted through line 16.

SEN. ELLIS asked **Jim Gillett, Legislative Audit Division**, if striking the language under current law would violate equalization. **Mr. Gillett** felt the language would be consistent with movement and progress. Deleting the 94% and 30% would not be an issue.

SEN. ELLIS stated his opposition to the amendment, rationalizing that it would cause schools to delay action on enrollment decreases for five years. **REP. SOMERVILLE** felt the problem could disappear prior to the next session because of the creation of an interim committee on school funding.

Lance Melton disputed the assumption that schools would not scale back unless mandated by law. He stated the amendment would allow local school boards to meet the needs and circumstances in each district.

Vote: SEN. COBB'S motion that SB 390 BE AMENDED TO "DELETE THE 30% LANGUAGE" passed 5-1 with SEN. MCCARTHY VOTING NO.

Connie Erickson asked for clarification of the term "unexpected decrease" in the **Ryan** Amendment. **Madalyn Quinlan** suggested using the language, "the actual ANB per year would be different than the projection used by the legislature". She explained if the actual ANB were less than the ANB used by the legislature in its projections, the money would be deposited in the school flex account.

Motion/Vote: SEN. MCCARTHY moved a CONCEPTUAL AMENDMENT THAT WOULD DEAL WITH THE "UNEXPECTED DECREASE" LANGUAGE. Motion passed unanimously.

CHAIRMAN GLASER held that recommendations from MSBA, regarding the transition fund, would specify a larger amount for a specified period of years, subject to a local vote. **Jim Gillett** responded that the number of years would not make a difference as long as the expenses were tied closely to the opening, closing, consolidating, and annexing of a school. He maintained that a longer term would be less likely to be related to the act of opening and closing schools. Since the funding source would be an unsubsidized local levy, there would be potential issues of wealth neutrality.

REP. SOMERVILLE queried whether the dollar amount could be frozen after four years instead of fluctuating. **Mr. Gillett** restated his opinion that allowing the term to extend indefinitely would result in an issue of wealth neutrality.

SEN. MCCARTHY questioned whether inequity would be an issue if the amount per child were too high for the poorer districts. **Mr. Gillett** contended that if a district's ability to access the amount was significantly affected by the number of mills needed to achieve that amount, then that would result in a wealth neutrality issue.

SEN. MCCARTHY contended the figure would have to be moderate in order to avoid inequity.

{Tape : 3; Side : B; Approx. Time Counter : 0 - 32; TAPE DATED 04-11-01}

REP. LAWSON wondered if the language referred to one vote for a four year period or a vote each year. **Madalyn Quinlan** indicated the transition language would enable the money to be deposited into the miscellaneous program fund, resulting in a major conflict of having levied tax revenues deposited into a non-budgeted fund. She affirmed that property tax money should go into a budgeted fund. **Ms. Quinlan** suggested the committee expand the concept of the building reserve, amending it to allow for an operating portion, which could be used for future construction, equipment, enlarging school buildings or the purchase of lands. She reiterated that a building reserve would be a one time fund with a predetermined term.

REP. LAWSON wondered if a new vote at the end of five years in order to renew the fund would result in an equity problem. **Jim Gillett** professed there would not be a problem, since the new vote would signal a new event.

SEN. COBB suggested changing the term to five years, while keeping the cap at \$100.

CHAIRMAN GLASER wondered if the cap could be set at 5% of the expenditure per student, resulting in a "living cap". **Mr. Gillett** claimed the committee should consider whether the dollar amount would affect the property tax wealth of the district. He observed that a cap in a consolidated district should be equal to the budget authority lost due to consolidation or annexation.

SEN. MCCARTHY queried whether the legislature should insert the dollar amount or if the amount should be left to the local boards. **Mr. Gillett** alleged there would be a grave risk involved when allowing the local boards to set the amount due to the differing value of mills between districts.

Lance Melton observed that a precedent of six years had been set with the passage of SB 488. He urged strong support of an expansion of the building reserve levy, cautioning the committee to consult with **Ms. Quinlan** to avoid limiting the purpose of the levy.

SEN. COBB suggested adding a term of six years with a dollar amount of 5% of the budget cap (current per student) or \$200 dollars, whichever would be greater. **CHAIRMAN GLASER** suggested using the maximum allowable budget. **Madalyn Quinlan** cited her belief that 5% of the current year's maximum general fund budget could be used when determining the requested amount.

REP. SOMERVILLE suggested that **SB 390 BE AMENDED TO INCLUDE THE SCHOOL FUNDING TRANSITION PLAN LANGUAGE AS SUGGESTED IN EXHIBIT #6 AND ADDING 5% OF THE MAXIMUM GENERAL FUND BUDGET OR \$250 PER ANB FOR THE DISTRICT, WHICHEVER WOULD BE GREATER.**

Madalyn Quinlan wondered which district and general fund budgets would be affected in the case of a consolidated district. She surmised it would be the combined general fund budget and an average of the ANB. She also suggested expanding the purposes of the building reserve fund to include operation, future construction, equipping or enlarging of school buildings, and purchasing land for the district. **Ms. Quinlan** asked that the transition levy not be subject to the bonding limitations of the district.

Motion/Vote: SEN. MCCARTHY moved to **ACCEPT THE CONCEPTUAL AMENDMENTS SUGGESTED BY REP. SOMERVILLE. MOTION PASSED UNANIMOUSLY.**

Motion/Vote: REP. LAWSON moved that **SB 390 BE AMENDED TO REMOVE THE WEIGHTED AVERAGE LANGUAGE. Motion carried unanimously.**

{Tape : 4; Side : A; Approx. Time Counter : 0 - 32; COMMENTS: TAPE DATED 04-11-01}

Motion/Vote: SEN. COBB moved to **RECONSIDER ACTION ON THE STEP DOWN LANGUAGE IN SB 390. Motion carried unanimously.**

Connie Erickson clarified that the 94% language would be removed, leaving the 30% and the step-down language. **Madalyn Quinlan** reminded the committee that the language in current law would only apply to the ten school districts that would have more than a 30% decrease in enrollment.

CHAIRMAN GLASER recessed the committee until 9:00 A.M. the following day.

{Tape : 4; Side : B; Approx. Time Counter : 0 - 5; TAPE DATED 04-11-01}

THE FREE CONFERENCE COMMITTEE ON SENATE BILL 390 was reconvened By **CHAIRMAN BILL GLASER**, on April 12, 2001 at 9:00 A.M., in Room 405 Capitol. **ALL MEMBERS WERE PRESENT.**

DISCUSSION ON SB 390

REP. LAWSON asked for an update on the actions of the committee. **Connie Erickson** submitted a gray bill with the proposed

amendments, **EXHIBIT(frs81sb0390a07)**. **Ms. Erickson** walked through the entire gray bill, discussing additions and deletions to the bill.

REP. LAWSON questioned whether schools would be able to run multiple levies, which could jeopardize the district's ability to pass levies. **CHAIRMAN GLASER** suggested that each piece would be a separate tool which would meet the different needs of each district.

REP. LAWSON wondered when the information needed to run a levy would be distributed to the each school. **Madalyn Quinlan** contended that school districts would be notified by the first of June, regarding their appropriations from the flex fund.

REP. LAWSON hypothecated that school districts would have to set a special election after June 1st. **Madalyn Quinlan** maintained the biggest issue facing school districts would be the signing of teacher contracts.

Lance Melton articulated the extension of election deadlines would be crucial. He reasoned that districts would desperately need the one week extension. He instructed that the first Tuesday following the first Monday in May would be the only opportunity for schools to run a school election during the current year. He reminded the committee that the bill would keep the date intact, while compressing the deadlines.

REP. SOMERVILLE surmised that school districts would not vote on the flex money in the upcoming election. **Mr. Melton** reiterated that money allocated in HB 2 would allow school districts to run a levy in June, as long as the election was held in time to adopt school district budgets in August.

Eric Feaver speculated that nothing in the bill would require the trustees to call for a vote. He maintained one of the beauties of the bill would allow the trustees to make local decisions .

Motion/Vote: **SEN. COBB** moved that **SB 390 BE AMENDED TO "ALLOW THE FLEX PLAN VOTE TO BE OPTIONAL"**. Motion carried unanimously.

REP. LAWSON contended that existing language in the bill would spell out the ballot for the reserve and flex funds, while remaining silent on the transition ballot. **Madalyn Quinlan** advised that HB 179 would provide standard language for ballots.

REP. LAWSON wondered if the transition levy should be voted before the opening or consolidating of a school. **Ms. Quinlan** asserted the levy could help with the operating costs of a new

school building or a new school program. It would not be available for the planning process. The planning process would be available in the building levy or the flex plan.

Connie Erickson explained the extension of the statutory deadlines as they would relate to school elections. The waiver of the deadlines would be effective on passage and approval.

**{Tape : 5; Side : A; Approx. Time Counter : 0 - 32; Comments :
TAPE DATED 4-12-01}**

Motion: SEN. MCCARTHY moved that SB 390 BE ADOPTED AS AMENDED.

Discussion:

REP. LAWSON wondered how flex money could be used for salaries without putting the money into the base. **Madalyn Quinlan** explained it would be unwise to spend the money in that way because it would not be a reliable revenue source.

REP. LAWSON questioned the language in subsection 5(b). **Ms. Quinlan** suggested the language would limit the fund to six years. She informed the committee that savings would occur when a decrease in the projected ANB would be distributed to schools. The savings would not be realized until November. A sign off would be received from the Budget Office before the monies could be transferred into the flex account.

REP. LAWSON wondered when the savings would begin. **Ms. Quinlan** apprized the committee that money would not be distributed in 2001.

Eric Feaver questioned the meaning of the term, "non-recurring", inserted on page 3, section 3. **CHAIRMAN GLASER** alleged that section would not occur each year and would be based on what would be available in HB 2. **Mr. Feaver** contended "non-recurring" would be based on what school districts could spend, not what they would receive. He argued that "non-recurring" should be removed.

Motion: SEN. MCCARTHY WITHDREW HER MOTION that SB 390 BE ADOPTED AS AMENDED.

Motion/Vote: SEN. COBB moved that SB 390 BE AMENDED TO DELETE THE WORD "NON-RECURRING" ON PAGE 3, SECTION 3. Motion carried unanimously.

Motion/Vote: SEN. MCCARTHY moved that SB 390 BE ADOPTED AS AMENDED. Motion carried unanimously.

{Tape : 5; Side : B; Approx. Time Counter : 0 - 10}

EXHIBIT(frs81sb0390a08)

ADJOURNMENT

Adjournment: 9:50 A.M. April 12, 2001

SEN. BILL GLASER, Chairman

LINDA ASHWORTH, Secretary

BG/LA

EXHIBIT(frs81sb0390aad)